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COMMISSION ON HUMAN RIGHTS

Forty-first session

SUMMARY RECORD OF THE SECOND PART (PUBLIC) OF THE 48th MEETING*/

Held at the Palais des Nations, Geneva,
on Friday, 8 March 1985 at 4 p.m.

Chairman: Mr. CHOWDHURY (Bangladesh)

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*/ The summary record of the first part of the meeting (closed) is contained in document E/CN.4/1985/SR.48.

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The meeting was called to order at 4.05 p.m.

OTHER BUSINESS

1. The CHAIRMAN announced taht the Commission had concluded its consideration of agenda item 12 (b) in closed meeting. It had studied the situation of human rights in Uruguay and had decided to discontinue consideration of the question under the confidential procedure established by Economic and Social Council resolution 1503 (XLVIII). It had also agreed that the relevant documentation might in future be made public and had adopted a resolution submitting a draft decision to that effect to the Council for approval.

2. Mr. DUBEY (India), speaking on behalf of the non-aligned countries, members of the Commission, stated that the presence in the conference hall of two representatives of the Government of South Africa earlier at the forty-first session of the Commission was a matter of great concern for a large number of countries, including the non-aligned countries, members of the Commission. The representatives had gained entry to the conference hall on the basis of beige-coloured identity badges issued by the Secretariat to observers and they had occupied seats reserved for representatives of Governments and non-governmental organizations who had been granted observer status. Their presence was clearly against rule 69 of the rules of procedure of the functional commissions of the Economic and Social Council according to which no Member of the United Nations that was not a member of the Commission might participate in its deliberations unless invited by it to do so. As the Assistant Secretary-General for Human Rights himself had stated in the 26th plenary meeting, the status of observer had not been accorded to South Africa, nor had it applied for such a status under rule 69 of the rules of procedure. The question then arose of under whose authority the representatives of South Africa had been issued with identity badges for attending the Commission as observers when their Government had not even applied for observer status.

3. At the same meeting, the Assistant Secretary-General had read out the following legal opinion from the legal counsellor: "Under rule 39 of the rules of procedure of the functional commissions of the Economic and Social Council, meetings of the commissions are public unless the body decides otherwise. All Member States have the right to attend public meetings, whether or not they have been solicited or received an invitation under rule 69 (1) and such representatives should be granted the facilities to do so". That legal opinion missed the whole point, because rule 39 simply provided that meetings of the Commission were open to the public unless the Commission decided to hold them in private: the rule was not designed to regulate the attendance or participation of representatives of Governments that were Members of the United Nations.

4. The General Assembly had clearly decided to preclude the Government of South Africa from participating in its deliberations; that practice had since been followed in the Council, its functional commissions and the subiidiary bodies of the General Assembly. Even if rule 39 of the rules of procedure was to be applied, those representatives who had not been allowed to attend or participate in the work of the Commission as members or observers could attend meetings only as visitors in the public gallery.

5. The practice followed until now had been that only the members of the Commission, observers, and authorized members of the Secretariat and the Press had been allowed access to the conference hall in which the Commission met. There had been instances

when the representatives of Governments including some Permanent Representatives had been prevented from entering the hall in spite of their having produced their identity cards because they did not have on them at that time the badges issued to members and observers regulating entry into the hall. The access provided to the representatives of the Government of South Africa therefore amounted to a departure from that normal practice.

6. The Government of South Africa had established and perfected a whole economic, social, legal and political framework to deny the people of South Africa their fundamental freedoms and human rights. Indulgence of the kind shown to its representatives could not but provide it with further encouragement to pursue its abhorrent policy of apartheid. That went against the spirit of all the resolutions and decisions adopted by the Commission, the Economic and Social Council and the General Assembly on the question of apartheid in South Africa. It could also have the implication of setting a precedent for the Government of South Africa to claim similar status and thereby respectability in its policy of apartheid, in other bodies and organizations of the United Nations system. The non-aligned countries that were members of the Commission therefore reiterated that the incident should in no way be taken as a precedent. They regarded the access given to the representatives of the Government of South Africa to the conference hall of the Commission as a lamentable aberration and insisted that it should never be repeated.

7. He requested that his statement should be reproduced in extenso in the summary record of the meeting.

8. The CHAIRMAN said that the statement by the Indian representative would naturally appear in the summary record.

9. Mr. ATANGANA (Cameroon) stressed that the Indian representative had requested that his statement should be reproduced in full.

10. The CHAIRMAN said that the Indian representative's statement would be faithfully reproduced in the summary record.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 12) (continued) (E/CN.4/1985/2; E/CN.4/1985/7/Rev.1; E/CN.4/1985/9 and Add.1; E/CN.4/1985/17 to 21; E/CN.4/1985/44, 54, 57, 58 and 60; E/CN.4/1985/NGO/4, 8, 13, 14, 15, 20, 21, 25, 28, 29, 34, 36, 38, 44, 50, 52 and 54; E/CN.4/1984/L.12/Rev.1 and L.30; A/39/635 and 636)

11. Mr. KHERAD (Observer for Afghanistan) recalled that his country had already provided the requisite clarifications and further details on the promotion and protection of human rights and the humanitarian and other measures it had taken in the economic and social field since the Revolution. Respectful of the rights, democratic freedoms and dignity of its citizens, his Government was guiding Afghan society, without discrimination or oppression, along the road to peace, freedom, democracy, equality, progress and justice.

12. He therefore regretted that during its fortieth and forty-first sessions, the Commission had, for strictly political motives, become the arena for inadmissible intrigue and manoeuvring on the part of the imperialist countries and their allies. Such detestable practices and malicious insinuations were part of a vast conspiracy by imperialism, and particularly the imperialism of the United States of America,

against Afghanistan and the Afghan revolution in flagrant violation of established procedure and the elementary rules of international law: that might seriously affect the Commission's reputation and its credibility. By talking about problems that did not exist and by indulging in malicious insinuations, the instigators of those manoeuvres were endeavouring to distract the Commission from its task and to prevent it from studying the genuine and serious violations of human rights for which imperialism, Zionism, fascism, racism and apartheid were responsible.

13. The alleged situation in his country, which was a complete fabrication by imperialism and reaction, would have never been brought before the Commission had there not been unwarrantable pressure by the enemies of the Afghan revolution who, on the pretext of defending human rights, were endeavouring to turn the heroic Afghan people away from the road it had freely chosen, in order to impose their hegenonistic interests in the region.

14. It was altogether deplorable that, in order to serve the selfish and base ambitions of those circles, a subsidiary organ of the Commission, composed mainly of jurists, had submitted a draft resolution contrary to the procedure established by Economic and Social Council resolution 1503 (XLVIII) and that it had thus allowed itself to become embroiled in a campaign to denigrate the progressive policy of his Government; it was equally regrettable that the Commission had seen fit to adopt resolution 1984/54, thus interfering in the internal affairs of a sovereign and non-aligned country.

15. It was still more regrettable that on the basis of that resolution, Mr. Ermacora had been induced to commit, in his turn, a further act of interference in the internal affairs of Afghanistan. The countries behind the campaign had no hesitation about infringing the principles of the Charter of the United Nations and the procedures they defended so eloquently when it suited them; clearly, that illegal and interventionist attitude, orchestrated by the United States and its accomplices, was completely unacceptable.

16. For that reason, his delegation had already rejected at the previous session a resolution that was contrary to the procedures established under the binding international instruments to which Afghanistan was a party, regarding the resolution and the circumstances of its adoption as illegal, null and void, politically harmful and morally hypocritical. Having stated that such an absurd resolution was in no way binding upon it, his Government had immediately declined to participate in its implementation.

17. As any State Member of the United Nations which valued its sovereignty would do in the same circumstances, Afghanistan categorically condemned a farce whose authors even could not deny that it was ridiculous and meaningless.

18. The alleged report submitted in document E/CN.4/1985/21 came about as the result of an illegal resolution, which reflected a total lack of understanding of the reality in Afghanistan and constituted a flagrant violation of the Charter of the United Nations. That tissue of lies, impertinence and inventions was not the outcome of political short-sightedness, which might be excusable, but of a will to do harm which called into the question the impartiality of its author, and which was a disgrace to the instigators of the so-called report.

19. There was no need to examine in detail a document invented from start to finish by United States imperialism and based on a biased resolution. It sufficed to say that Mr. Ermacora's pamphlet contained assertions so preposterous and so partial that it was quite obvious that they were false, as the Commission could see for itself simply by reading it.

20. That tissue of lies which incidentally had been published in the International Herald Tribune even before the Commission had been seized of it, had been prepared from information emanating mainly from imperialist and reactionary circles and counter-revolutionary bandits. It would be absurd to expect anyone to regard information on the situation in Afghanistan issued by the imperialists and their reactionary and terrorist lackeys as objective and reliable. Naturally, Afghanistan categorically rejected the allegations which were as despicable as the pressure put on certain delegations to induce them to support the United States of America and its accomplices in their anti-Afghan propaganda campaign.

21. To conceal the real state of affairs, the vast imperialist and hegemonist propaganda machine now used libel on an unprecedented scale. If the lies thus circulated were to be believed, most of the leaders of the Democratic Republic of Afghanistan had been killed not once but several times; in the same vein, the greater part of the country was under the control by the counter-revolution, and all the towns and villages had been completely razed; the armed forces had been annihilated five times over and the entire population had been wiped out not once but twice. Realizing the patently ridiculous character of such allegations, their perpetrators had recently had recourse to other kinds of flagrant lie based in particular on an alleged shortage of foodstuffs.

22. All such ludicrous and insensate maneouvres would not prevent his country from continuing with the major economic and social changes it had initiated. It would also resist the allied forces of the imperialists which were sowing death and destruction. It was those forces and their supporters who were guilty of infringements of human rights in Afghanistan.

23. No one would deny the reality of the undeclared war being waged against his country; every day there was further evidence that State terrorism had become an instrument essential to the policy conducted by the United States of America and its accomplices against democratic Afghanistan. The destructive and barbarous attacks mounted, mainly from Pakistan, had inflicted very heavy losses on the Afghan people. Thousands of innocent people had been killed and public and private property (places of worship, schools, hospitals, bridges, roads, electric power stations, harvests, etc.) had been destroyed. The total cost of the destruction and damage caused by the crimes of the counter-revolutionaries was equivalent to three-quarters of the total investment in development over the 20 years which had preceded the April 1978 revolution.

24. Hundreds of millions of dollars and pounds had been spent to recruit and train bands of counter-revolutionaries and to equip them with ultra-modern weapons, including heavy weapons, which were being used for the first time in the region, to perpetrate acts of terrorism against the peaceful people of Afghanistan. There was abundant evidence to that effect: the Afghan army and security forces had seized equipment, and captured and repentant mercenaries had confessed their crimes at press conferences organized in Kabul by Afghan and foreign journalists.

25. The counter-revolutionaries, described by Mr. Shultz as freedom-fighters of Afghanistan, did not flinch at any crime: in March 1984, a bomb had exploded in a Kabul mosque during a service, killing a number of people and injuring over 20 more and causing considerable material damage; in April 1984, an explosive charge in a Kabul cinema during the showing of a children's film had led to casualties; in June 1984 a time-bomb had exploded in a crowded Kabul trolley-bus causing a large number of deaths of civilians; on 31 August 1984, an explosion near the Kabul International Airport building had caused 13 deaths and 207 injured, and an investigation had revealed that the CIA and the United States of America had been involved in that crime; in September 1984, a DC-10 of the Afghan airline company, Ariana, en route from Kandahar with 310 passengers on board, had been the target of a barbarous attack and only the courage and presence of mind of the crew had averted a disaster; on 3 November 1984, the densely populated old part of Kabul had been hit by rockets launched from pads of Chinese and United States manufacture which had killed five and injured 16 persons and caused extensive material damage. Those few examples were only the most recent acts of terrorism perpetrated by the counter-revolutionary rabble in various regions of the country.

26. Those deeds of death and destruction and the "secret war" against his country were financed and directed by the United States of America which, in the words of its leaders, admired, supported and encouraged the terrorist crimes perpetrated against Afghanistan, whilst otherwise posing as a convinced enemy of terrorism and a defender of human rights. And, in fact, United States leaders delighted in expatiating in and out of season upon freedom and democracy. But what liberty, what democracy were they seeking to establish in Afghanistan, when they armed terrorists to sow death and destruction in the country, which had opted for a new social and economic system based on progress and also made provision for perpetuating the best traditions of its past history?

27. An unshakable attachment to independence and national territorial integrity could be seen in the history of the Afghan people's struggle in defence of its freedom, dignity and sovereignty, and thus bore witness to its patriotism. Out of loyalty to that tradition, the Afghan people was resolved to resist the secret war waged against it by reaction, imperialism and hegemony. That was why over six years of subversion, coercion and attempts at destabilization, flagrant attacks and a complete economic blockade had not enabled its enemies to turn the illusions they cherished into reality.

28. In spite of all the difficulties created by armed raids from abroad, Afghanistan, resolutely supported by the majority of the population, had implemented a comprehensive programme of political, economic and social reforms whose keynote was progress and which was already bearing fruit. Thus, for example the Patriotic National Front had consolidated its position, the law on local organs of the administration and the authority of the State, by operating the jirgah system from the village to the provincial level, allowed the people to participate directly in local and national affairs through democratic elections. The democratic evolution begun in April 1978 was taking its course. After a brief and sombre period of terror exercised by an imperialist henchman and CIA agent, his Government had proclaimed, on 28 December 1979, a general amnesty resulting in the release of 15,000 political prisoners, without any distinction as to class, religion, language, tribe, nationality, ideology or political leanings, in the presence of Afghan and foreign journalists.

29. His delegation again stressed that a series of radical humanitarian measures had been enacted in his country to ensure the rights and fundamental freedoms of Afghan citizens, including: the abolition of all anti-democratic and inhuman laws; the cessation of arbitrary arrests, harassment and searches; the guarantee of the right to life and security of person; respect for the principles of Islam and religious rites; the equality of citizens before the law and in the economic, political, social and cultural fields; protection of the family; the integrity of the individual; respect for the principle of peace and revolutionary order in the country; the guarantee of democratic rights and freedoms, including freedom of expression, freedom of peaceful assembly and association; equal rights for men and women; the guarantee of the right to work and to leisure, the right to education, health, etc., all rights, freedoms and guarantees set out in Chapter 2 of the Fundamental Principles of the Democratic Republic of Afghanistan and in other Afghan legislation.

30. The general amnesty and the leniency and clemency in general which his Government had shown towards those who had engaged in counter-revolutionary activities and the pardons it had extended to mercenaries were clear proof of its humanitarian stance.

31. His delegation, however, had to report that a small number of terrorists, lackeys in foreign pay, who had continued to sow disorder, thus threatening the lives of innocent people as well as social peace, had been captured and promptly put on trial in conformity with the legal rules and principles of the Afghan State, and the competent court had found them guilty, in the light of irrefutable evidence. A number of those who had repented and pleaded guilty had been pardoned; others accused of minor offences had been sentenced by the court to short terms of imprisonment and had been released on the occasion of the sixth anniversary of the April revolution, the New Year festivities and religious festivals. Still others, who had committed unpardonable and violent acts of terrorism against innocent persons had been duly sentenced at public trials to the penalties prescribed by law, since it was essential not only to combat terrorism and looting but also to defend and protect the rights, fundamental freedoms and security of Afghan citizens, especially their right to live in peace and to enjoy the protection of the law in respect of their person and their property.

32. There was no doubt that his country, which had acceded to the relevant international human rights instruments, was concerned to promote and protect human rights in Afghanistan. It was therefore unfortunate that certain information organs, hostile to it, and which were well known and a so-called rapporteur were spreading false information about the situation in the country in order to inflame public opinion and to cast suspicion on Afghanistan's unswerving attachment to human rights and fundamental freedoms.

33. The new Afghanistan continued to go forward, and was determined to build a flourishing and equitable society which would offer its Muslim and revolutionary people a happy and prosperous life. It would never allow itself to be diverted from the moral code it had chosen and it was firmly resolved to resist pressure and intimidation from abroad.

34. In view of those considerations and of the fact that there was no objective argument or the least vestige of evidence against the Democratic Republic of Afghanistan, his delegation firmly condemned and rejected the alleged report, which was no more than a tissue of lies and again requested the Commission to discontinue an unwarranted consideration of the alleged situation of human rights in Afghanistan, a country where democratic rights and freedoms were fully guaranteed, and to put an end to the pernicious initiatives and tendentious manoeuvres aimed at exploiting the situation in Afghanistan for purely political ends.

35. Mr. KOOIJMANS (Netherlands) said he wished to comment on one specific aspect of human rights violations, namely summary or arbitrary executions which, together with involuntary disappearances and torture, formed an "Unholy Trinity", in the sense that the three phenomena were often linked.

36. There was every reason to commend Mr. Wako, the Special Rapporteur on summary or arbitrary executions, on his very thorough study (E/CN.4/1985/17). He should also be commended for interpreting his mandate in such a way that in case of imminent summary or arbitrary executions, he immediately cabled the government concerned, appealing to it, for purely humanitarian considerations, to ensure that the execution did not take place. The fact that only two of the 13 governments approached and mentioned by name had responded, and that four others which had not responded had nevertheless commuted the sentences, might seem to be a poor result. However, every life that could be saved in that manner counted, and his delegation urged the Special Rapporteur to persevere in the course he had undertaken.

37. Nevertheless, his delegation had some reservations about some of the other parts of the report. At the previous session, it had already noticed that the Special Rapporteur's second report (E/CN.4/1984/29) differed in one important aspect from the previous one (E/CN.4/1983/16 and Add.1 and Add.1/Corr), in that there was no longer a sub-chapter dealing with "allegations in regard to specific countries". Instead, a new chapter had been included under the heading "Analysis of situations in which arbitrary and summary executions usually take place", devoted to a description and analysis of such situations, without naming the specific countries in which the summary or arbitrary execution had been carried out. His delegation was disappointed to note that the current report no longer included a chapter of that kind. It hoped that the chapter would be reintroduced in the next report. His delegation also regretted the omission of names of countries in chapter II, entitled "Protection of the right to life: review of laws and situations". That chapter was actually a summary of information concerning their national legislation which various Governments had transmitted to the Special Rapporteur. He wished to emphasize in that connection, that his country had provided the Special Rapporteur with the information on the use of firearms by police officers which appeared in paragraph 53.

38. His delegation had been particularly interested in annex V of the report, which contained an account of the Special Rapporteur's visit to Suriname and to the Netherlands in July 1984. It welcomed the fact that, after an earlier cancellation, the visit had taken place and that the Surinamese authorities had given the Special Rapporteur assurances that he would be able to meet all the people he wished to see and who wished to see him. It thanked the Special Rapporteur for the thoroughness with which he had carried out his mission of inquiry in Suriname and for his report, even though it was not fully satisfied with it. He recalled that the tragic events which had taken place in Suriname on 8 and 9 December 1982 had compelled his delegation to express its serious concern about the human rights situation in

that country during the Commission's thirty-ninth and fortieth sessions, and that had been the immediate cause of the Special Rapporteur's visit. He further recalled that his delegation had already drawn the Commission's attention, at its thirty-eighth session, to the brutal killing of 15 prominent members of Surinamese society. It shared the Special Rapporteur's conclusions that "the executions of 8-9 December 1982 cannot be justified and cannot but be considered summary or arbitrary" (paragraph 64), according to the definition he had given in his first report (E/CN.4/1983/16, paragraph 66) of the term "arbitrary execution": "the arbitrary deprivation of life as a result of the killing of persons carried out by the order of a Government or with its complicity or tolerance or acquiescence without any judicial or legal process."

39. His Government had taken due note of the fact that the Government of Suriname had not contested the findings of the Special Rapporteur, as was clear from a note on the Special Rapporteur's report distributed by the observer delegation of Suriname.

40. The Special Rapporteur gave a detailed account of the events in Suriname after the military take-over in February 1980 and which had led to the killings of December 1982. Admittedly, while those killings should be seen in the light of the prevailing circumstances, they could never be regarded as "necessary" (see E/CN.4/1985/17, annex V, para. 29). His delegation found particularly revealing the remarks made to the Special Rapporteur by some officers ("It was a question of either them or us") reproduced in the same paragraph.

41. It was abundantly clear from the Special Rapporteur's survey of the events between 1980 and 1982, and especially paragraph 17, that the military leadership had gradually lost the support of the population and that it was that fact, rather than an externally-inspired conspiracy, that had led to the catastrophic events of December 1982. Was there any plausibility in the argument put forward by Lieutenant-Colonel Bouterse, in a speech on the evening of 8 December 1982, that there had been an attempted coup d'état "which was designed to restore the situation whereby a small economic élite would come to power and trample underfoot the interests of the workers, peasants and masses of our people" (para. 30(b)) if it was borne in mind at the same time that the hotbeds of counter-revolution were obviously the headquarters of the largest trade union, two independent radio stations and the offices of an opposition newspaper destroyed by the military in the night of 8 December 1982? In view of the events of 8 December 1982, the statement made by the Association for Democracy on 3 December, that "a stubborn attempt to impose the will of a small minority on a large majority ultimately ends in the use of senseless violence" (para. 24) sounded in retrospect like a horrifying prophesy.

42. His delegation was not convinced by the version of the events of 8 December 1982 that military authorities had given to the Special Rapporteur, because it was full of inconsistencies. To cite only one example, how could one believe that the soldier manning the Bren gun, who was held responsible for the shooting, might have fired in a moment of panic, caused by the noise of aircraft flying over Fort Zeelandia, when, shortly afterwards, after the executions had taken place, soldiers who were posted round Fort Zeelandia had been found dozing? No explanations had been given for the marks of torture visible on the faces of at least one of the two persons who made a "confession" on television and on the bodies of the 15 victims which members of their families and hundreds of other people had been shown the following day in the hospital morgue.

43. It was therefore highly regrettable that no formal investigation had been made to determine the facts. The fact that Major Horb, who according to the authorities had originally been instructed to prepare a report, had been arrested some time afterwards and on 3 February 1983 had been found dead in his cell, could hardly serve as an explanation why the investigation had not been resumed. His delegation was at a loss to understand why no efforts had been made to trace the persons who had been present in Fort Zeelandia when the shooting had taken place. In a relatively small town like Paramaribo, that was certainly not an impossible task. His delegation shared the Special Rapporteur's view that it was impossible to regard his activities in that sphere as constituting "a formal investigation which might correspond to or replace the investigations envisaged in criminal procedure in the domestic legal system or an inquest" (para. 14). On the other hand, his delegation felt that the omission in that instance on the part of the Surinamese authorities was contrary to the obligations they had assumed under the International Covenants on Human Rights and the rules of international law.

44. As his delegation had already stated at the Commission's thirty-ninth session, the deprivation of life was irrevocable and what was important now for the Commission and for the people of Suriname was that the rule of law should be restored, and that measures should be taken so that the events of December 1982 would not recur and that safeguards should be adopted or envisaged to enhance the protection of the right to life. In that connection, his delegation noted with satisfaction that the civil and military authorities had repeatedly assured the Special Rapporteur that everything would be done to prevent a recurrence of the events of December 1982 (see sections F and G of annex V). But it had noted with concern that other people had expressed the fear that similar events could happen again, should the military feel that their power was threatened. It was therefore all the more important that democratic structures should be established in Suriname, providing legal procedures and legal guarantees applicable to all Surinamese, and whose form and substance the people of Suriname should freely determine.

45. His Government had noted with appreciation the enactment of legislation establishing a national institute for human rights and thought that the decisive factors would be the mandate and powers of that body. It welcomed the discussions that had taken place between the trade unions, commerce and industry and the military on the development of a new constitutional structure. It had taken note with interest of the results of those discussions, although they had not dispelled its concern. His Government was certainly not implying that Suriname should return to the pre-1980 system. It had co-operated with the Government of Suriname after the revolution of February 1980 and only the tragic events of December 1982 had disrupted that co-operation. His delegation subscribed without reservation to the Special Rapporteur's conclusion that "people may have different concepts of democracy and of the democratic institutions and processes that are suitable for Suriname" and just as fully to his conclusion that "it was universally acknowledged that, in looking to the future, summary or arbitrary executions can be prevented if democracy is restored" (para. 66 of annex V). It was of primary importance that the Surinamese should be free to express themselves. His delegation therefore urged the Surinamese authorities to give the people of Suriname that opportunity as soon as possible. The events of December 1982 could not be forgotten, but they could be made part of an irreversible past.

46. Mr. ROBERTSON (Australia) said he wished to begin by making a few remarks about the way the debate on the item under consideration had been conducted thus far at the current session. His delegation had listened with great interest to the statement made by the Uruguayan delegation at the preceding meeting and which was a positive source of inspiration. It welcomed the return of Uruguay to its democratic traditions and was heartened by the human rights policy announced by the Uruguayan Government.

47. States members of the Commission, observer delegations and non-governmental organizations had made statements on agenda item 12, some on specific situations or reports by the special rapporteurs and others on the procedures which governed the Commission's deliberations. Thus, the Netherlands delegation had referred to the relationship between the Commission's work in open and closed meetings. Whether the discussions which took place in open and closed meetings were satisfactory or not, was a matter for each delegation to judge. It was none the less true that the way in which the discussions were conducted was now an established practice.

48. His delegation commended the work of the special rapporteurs. The growing body of documentation on summary or arbitrary executions stood as testimony to the advances which had characterized the Commission's debates in recent years. It reflected the Commission's wish to pinpoint practices and situations involving gross violations of human rights. Perhaps all those practices and situations had not been examined, but many were effectively covered. Without sparking off controversy, but guided by the international human rights instruments, the Commission must continue to denounce, in addition to the abhorrent practices which were unfortunately familiar, those which were as yet unpublicized.

49. International public opinion played a critical role in discouraging human rights violations and the Commission's annual debate under agenda item 12 offered an opportunity to highlight certain disturbing situations in many parts of the world.

50. In raising a particular situation, his delegation's intention was not to criticize a particular country, but to help the members of the Commission towards a common appreciation of the events and of ways to bring an end to human rights abuses. Furthermore, it placed the debate in the context of the activities pursued by Australia to protect and promote human rights through different channels (bilateral, public and confidential). It considered that much could be done in a concrete and practical way to assist in the resolution of problems that gave rise to human rights violations.

51. A number of delegations had raised the issue of selectivity in the Commission's consideration of human rights situations. As his delegation had already indicated, there was logic in that complaint. Nevertheless, Australia would not draw back from its obligations to take a public stand on situations which merited consideration by the Commission. His delegation would point out in that connection that the Commission had broadened the scope of its inquiries in recent years to cover all the regions of the world.

52. At the same time, his delegation did not accept the argument that the Commission's debate on human rights should always maintain a general focus. It must be borne in mind that the United Nations in large part owed its existence to the

belief that Governments had a duty to protect the individual against the kind of inhumanity too many people had experienced before the foundation of the United Nations. Its activities were guided by that belief. It would be a breach of the founding spirit of the United Nations not to discuss a specific situation which was particularly disquieting.

53. With regard to the situations that Special Rapporteurs had examined, his delegation wished to emphasize that it was of fundamental importance that all Governments should extend co-operation to the United Nations, and it was concerned by the fact that several had not done so.

54. The situation in Chile, which had led the Commission to develop new procedures, remained of deep concern, mainly because of the new restrictions that the Chilean Government had imposed on opposition movements in 1984 and the reintroduction of a state of siege in November. The hopes of "apertura" had been dashed. That setback, which had delayed the return to civilian rule, had caused his Government to sponsor the resolution on the situation in Chile adopted by the General Assembly at its thirty-ninth session and a draft resolution on the same subject at the Commission's current session.

55. While developments in El Salvador gave some encouragement, serious violations of human rights nevertheless continued to occur. His Government, anxious to support all efforts towards reform, welcomed a number of positive measures taken by President Duarte to combat the "death squads" and to initiate a dialogue with the opposition. In other areas, however, much remained to be done, particularly in view of the large number of civilian casualties in military operations and the need for an effective judicial system. It was to be hoped that the authorities in El Salvador would heed the opinion of the Special Rapporteur and the Commission and would step up their efforts to restore the protection of human rights.

56. Australia had always supported the messages addressed to the Government of Guatemala. The human rights situation in that country remained serious and his delegation was particularly concerned at the continuing high level of violations in urban areas, the apparent breakdown of the judicial system and the persistence of violations in the countryside, due to military activities. The holding of constituent assembly elections and the plans for presidential elections had created hopes that had been frustrated, since the Constitutional Government had still not been installed. His delegation urged the Guatemalan authorities to adhere to the new time-table and hoped that the Special Rapporteur's report (E/CN.4/1985/19) would encourage the Government to make further progress.

57. In answer to a point raised by the Special Rapporteur, his delegation considered that he should continue to study the situation of the refugees, which could constitute an important element in the human rights situation. In that connection, it should not be forgotten that the Commission on Human Rights and the General Assembly had given attention in recent years to the links between violations of human rights and mass exoduses, a phenomenon which should always be encompassed by special rapporteurs dealing with specific situations.

58. For the first time, the Commission had before it a report on the situation of human rights in Afghanistan (E/CN.4/1985/21) which drew attention to the widespread practice of torture. The human rights violations which had been brought about by the

extensive armed conflict in that country were deeply disquieting and justified the proposal that the question should be brought to the attention of the General Assembly by means of an interim report prepared by the Special Rapporteur.

59. For several years, the Commission on Human Rights had been adopting resolutions on the situation in Iran, requesting the Iranian Government to permit a United Nations mission to visit the country to examine the situation at first hand. His country had sponsored all those resolutions and it hoped that the Iranian authorities would now be ready to demonstrate their good faith by authorizing the mission, which was justified by the continuing reports of violations, including instances of summary and arbitrary executions, torture and persecution of minority groups, particularly the Baha'i.

60. Recently, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities had referred to the human rights situation in Sri Lanka, which had been a matter of close interest since the communal disturbances in 1983. His delegation would welcome any information the Sri Lankan delegation could provide in token of that Government's commitement to co-operate with the Commission.

61. In 1983, the Commission had for the first time adopted a resolution about a country in Eastern Europe, Poland. At its preceding session, it had decided by a narrow margin to take no action whereas, in the view of his delegation, the situation in that country justified continued examination. Although there had been improvements, for example the proclamation in 1984 of an amnesty, it had to be acknowledged that the special regulations which proscribed the exercise of a number of fundamental rights were still in force, contrary to the obligations assumed by Poland under a number of international instruments, in particular the International Covenant on Civil and Political Rights.

62. His delegation also considered that it was not possible to overlook the situation in other East European countries, such as the USSR. The people and Government of Australia were concerned about human rights violation in the Baltic States, in particular the repression of individuals engaging in no more than the non-violent expression of national and religious convictions. There was also the repression of minority and ethnic groups in other Republics, and in that connection, the difficulties faced by Soviet Jews who wished to emigrate deserved particular mention.

63. On several occasions, the Commission had concerned itself with the right to life. Australia had made pleas for clemency in several cases where executions were imminent, in particular the execution in Sudan of Mahmoud Mohammad Taha.

64. Item 12 of the Commission's agenda now included a new and very useful element, namely, the right and responsibility of individuals, groups and organs of society to promote and protect human rights and fundamental freedoms. The idea that everyone should be able to work for the full enjoyment of human rights was inherent in the concept of human rights. His delegation looked forward with interest to the study on the draft principles to be elaborated on the subject and it hoped that all those involved in the work of the Commission would be prepared to contribute constructive comments.

65. His delegation had already had occasion to comment on the historical dispossession and present special disadvantages suffered by the indigenous population of Australia. His Government was fully aware of that situation, and that awareness led it to take a keener interest in the situation of indigenous populations in many parts of the world, as reflected in its support for the activities of the Sub-Commission Working Group on Indigenous Populations. The representative of the non-governmental organization, the Four Directions Council, had correctly recalled the commitment made by the Australian Government to protect the human rights of the indigenous population of Australia. The Commission could rest assured that the commitment was real. On 20 February 1985, the Minister for Aboriginal Affairs had announced governmental proposals to provide a framework for consultations with the State and Territory Governments, aboriginal representatives and other interest groups, mainly on the central issue of land rights. He assured the representative of the Four Directions Council that his Government was committed to policies of self-determination and that, in that spirit, it would see to it that the aboriginal people was helped to achieve social and economic independence at standards comparable to the rest of the Australian community.

66. The CHAIRMAN announced that after the list of speakers had been closed, 12 representatives had asked to be added to it. In view of the fact that they were so few in number, he suggested that the Council should agree to give them the floor. If there was no objection, he would take it that the Commission accepted that suggestion.

67. It was so decided.

68. Mr. SOFINSKY (Union of Soviet Socialist Republics) inquired which rule of procedure the Chairman had invoked in deciding to reopen the list of speakers. He was surprised at such an infraction of the rules of procedure.

69. The CHAIRMAN replied that there had been no infraction of the rules of procedure since the Commission was the master of its own procedure and no one had objected to his suggestion. If the Soviet representative had been against it, he should have made an objection.

70. Mr. DAOUDY (Syrian Arab Republic) pointed out, for the benefit of the Soviet representative, that his delegation had been engaged elsewhere when the time-limit for closing the speakers' list had been announced. Owing to the events currently taking place in the Arab world, the Arab Group, to which most of the 12 speakers belonged, had deemed it imperative to take part in the deliberations. His delegation was confident that his argument would not fail to carry weight with the representative of the Union of Soviet Socialist Republics.

71. The CHAIRMAN, having read out the list of 12 speakers, of whom only three represented non-governmental organizations, Mr. SOFINSKY (Union of Soviet Socialist Republics) agreed that they should be given the floor.

72. Mr. DHILLON (India) said that consideration of the situation in Sri Lanka at the Commission's fortieth session had authorized a certain measure of optimism that the ethnic problem would be resolved through suitable political means, but the hopes had unfortunately been belied. At the present time, the All Parties Conference had been adjourned sine die without achieving any substantive progress and no fresh initiative had been undertaken. The failure to reach a political settlement and the

breakdown of the dialogue with the minority Tamil community had created a climate of confrontation rather than conciliation, leading to a growing spiral of violence and counter-violence which had claimed the lives of many innocent people. Several hundred people had been killed in Sri Lanka in March, April, August, November and December 1984.

73. Over recent months, the lives of ordinary citizens, particularly in the north and east, had been disrupted, following the imposition of a security zone in the Jaffna Peninsula which restricted the movement of persons and vehicles. The food and economic situation was likewise disastrous. Friction among the various communities had escalated in the north and east, and such an atmosphere bred hate and fear, emotions not conducive to a solution.

74. The situation was particularly saddening for his country, which had close ties of friendship with Sri Lanka and which was suffering the social, political and economical repercussions of the ethnic problem occurring in Sri Lanka. Over 200,000 Indian nationals, apart from the large number of persons of Indian origin, had settled in Sri Lanka; they had been affected by the ethnic crisis, and that could not but cause anxiety to the Indian authorities. India was also affected in other ways by the growing insecurity in Sri Lanka. Thus, since early February 1985, it had been admitting a growing number of Tamil refugees; over 6,000 had already arrived in India and the influx showed no sign of abating, for the situation in the north of Sri Lanka had deteriorated to such an extent that Tamils were finding it difficult to remain there. India already had some 50,000 Sri Lankan refugees, and each new influx made the burden heavier. On humanitarian grounds, his Government had granted them asylum, but it could not offer them a permanent home and the situation of those uprooted refugees, in agony about their future, was very disquieting.

75. His delegation wished to state emphatically that the people and Government of India had no interest in exacerbating the ethnic problem in Sri Lanka, contrary to what some people in that country implied. Indeed, the conflict had adverse consequences for India, which had everything to gain from a rapid solution to the problem. The restoration of friendly and harmonious relations among the communities would facilitate the return of the refugees to Sri Lanka. The ethnic crisis in Sri Lanka was the outcome of a number of problems which had festered over the years. In 1984, the Sri Lankan Government had appeared to favour a political approach and had invited all the parties concerned to negotiate at a conference during which various proposals were put forward. At the end of 1984, President Jayewardene had introduced draft legislation providing for some measure of devolution of power, that the Tamils had deemed insufficient; they had, however, been prepared to continue discussions, but in December 1984, the Government had withdrawn the draft legislation and terminated the dialogue. In the absence of negotiations, there was a danger of further outbreaks of violence. His delegation hoped that the Sri Lankan Government would make fresh efforts to seek a political solution, since there was no alternative solution to the ethnic problem in Sri Lanka.

76. Mr. JAEGER (Federal Republic of Germany) said that his country's Constitution, adopted on 23 June 1949, catalogued the rights that reflected the historical experience of the German people. Similarly, the United Nations human rights instruments represented the historical synthesis of many cultures, which should be further supplemented by new instruments so as to respond to the needs of all

cultures. That process should, however, avoid making changes in the interpretation or application of existing instruments. Furthermore, the full realization of all human rights required just living conditions for all people on Earth.

77. The task of the Commission on Human Rights was to encourage all countries to implement the provisions of the United Nations instruments. To discharge that task, it must react immediately, courageously and steadfastly to human rights violations; it must also avoid partiality. The Commission's task remained a heavy one: in the previous year, despite the adoption of the Convention Against Torture and the return of several countries in Latin America to democracy, the number of human rights violations had remained dreadfully high all over the world. At the recent session of the General Assembly, the Minister for Foreign Affairs of the Federal Republic of Germany had stated that torture was one of the most dreadful scourges of mankind and must be banished from the face of the Earth. On several occasions, his country's Minister for Foreign Affairs had proposed to the United Nations General Assembly the setting up of an international court of human rights to deal with particularly loathsome violations, such as torture, arbitrary and summary executions and the disappearance of persons. His country had also put forward a proposal for international co-operation to avert new flows of refugees. Among recent movements, he mentioned that of refugees from Sri Lanka, due to the violent conflicts in that country, which had led many Sri Lankans to apply for asylum, inter alia, in his country.

78. Despite positive developments in Latin America, the resumption of repression in Chile must be regretted. The Military Government of that country had extended the state of siege on the very day the Commission had begun its session. In Guatemala, the efforts made by the Government and the dialogue it had initiated with the Church and opposition groups should be acknowledged. Nevertheless, there continued to be numerous violations of human rights. In El Salvador, President Duarte had also begun talks with the opposition groups; the dialogue must be pursued expeditiously since many cases of human rights violations in El Salvador were still being reported. Disturbing human rights violations had also been reported in Paraguay and in other Latin American countries, during the Commission's closed meetings. The situation was also disquieting in Cuba, where there were many political prisoners. In Nicaragua, the situation of the Indian population had been cause for concern for a number of years, but the latest report by the Organization of American States indicated that the Government was giving better protection to that group. It was also to be hoped that Nicaragua would comply fully with the democratic principles which had been at the heart of the uprising against the dictatorship.

79. His country appealed to the Government of Iran to guarantee the full enjoyment of the rights of all sectors of the population, and in particular the Baha'i minority which was apparently continuing to be persecuted for purely religious reasons. In Afghanistan, the war was causing serious violations every day, as shown in the report in document E/CN.4/1985/21. His country appealed to Afghanistan, as one of the first countries to sign the Convention Against Torture, on 4 February 1985, to act in conformity with the standards to which it had committed itself. In Viet Nam, tens of thousands of people were still being detained without trial in the "re-education camps". Anti-religious repression was increasing. The disregard shown for basic rights was causing on average nearly 2,000 people to flee every month in makeshift boats. Furthermore, Viet Nam continued to occupy Kampuchea,

where the war was causing many refugees to flee in the direction of Thailand. A delegation of the Lawyers' Committee for International Human Rights, which had visited Kampuchea in November 1984, had come to the conclusion that thousands of political detainees were still being held in inhuman conditions.

80. His delegation had already expressed its concern about human rights violations in South Africa in a statement made in the Commission on 13 February 1985. In Sudan, religious fanatics were invoking their faith as a justification for acts of violence which negated basic human rights. But the dignity of men as the creation of God was a value recognized by all the great religions. In Uganda, the population was continuing to suffer from acts of violence both by the army and the guerrillas. His delegation appealed to the Government of Uganda to continue its endeavours to restore peace to the country.

81. Human rights violations also continued to occur in the socialist countries of Eastern Europe. The Soviet Union continued to prevent persons who were undoubtedly of German nationality from emigrating. There were also numerous cases of persons being arrested or deported because they voiced personal political opinions or campaigned for respect of human rights. One example among many was that of Andrei Sakharov, the winner of the Nobel Peace Prize. The situation in Czechoslovakia with regard to religious freedom was still a matter of concern. In Poland, the amnesty proclaimed in the summer of 1984 constituted an important step forward; it was to be hoped that the Government would take further measures to promote national unity and protect all its citizens against arbitrary acts of violence.

82. In his address to the Bundestag on 27 February 1985, the Chancellor of the Federal Republic of Germany had stressed the Federal Government's duty to defend the human rights of all Germans. In particular, his Government regarded it as imperative, especially in a divided nation, to create conditions that would make boundaries more permeable. The Chancellor had declared that the Federal Government did not want to shift boundaries, but to overcome them by working to achieve a deeper sense of humanity and understanding with all its neighbours in the East. He had welcomed the fact that over 40,000 Germans from the German Democratic Republic had settled in the Federal Republic in 1984. He had noted positive developments concerning travel to the German Democratic Republic and youth exchanges, but he had appealed to the authorities of that country to make a greater effort to simplify visits to the Federal Republic. He concluded by appealing to all States Members of the United Nations and, in particular, to those that were parties to two International Covenants on Human Rights and other international conventions, to respect human rights in order to promote international co-operation and peace.

83. Mr. KLENNER (German Democratic Republic) said that he was astonished that delegations which constantly complained about the politicization of the Commission's debates, wished it at all costs to concern itself with the revolution under way in Afghanistan. The previous month, a copy of Mr. Ermacora's report on Afghanistan (E/CN.4/1985/21) had been made available to a newspaper whose leanings were well known before it had been distributed to the Commission. That act discredited the Secretariat, disregarded the code of conduct to which journalists were subject and encroached on the rights of the Commission itself. The Ermacora report did not intrinsically serve the cause of human rights; on the contrary, it served to infringe the right of the Afghan people to self-determination. His delegation did not consider that the report reflected the position of Austria, with which his country maintained friendly and multi-facetted relations.

84. Relations between the Democratic Republic of Afghanistan and his country were developing successfully on the basis of a treaty of friendship and co-operation concluded in 1982. For seven years, the Afghan people had been fighting to overcome the painful heritage of imperialist plundering and internal terrorism. The Ermacora report, however, took no account of the revolutionary process. It was based on information emanating from politically biased organizations and persons, and it did not quote governmental sources or information and opinions emanating from progressive non-governmental organizations. Mr. Ermacora should have taken account of the socio-economic changes described by the representative of Afghanistan and in document E/CN.4/1985/NGO/12. He had not even bothered to characterize the pre-revolutionary social, political and legal order in Afghanistan. Admittedly, regrettable incidents might occur in the initial stages of a revolution; that had been the case in the Netherlands and in Britain in the seventeenth century, in France and in the United States of America in the eighteenth century and in Russian and China in the twentieth century. The Chairman of the Revolutionary Council of the Democratic Republic of Afghanistan, Mr. Babrak Karmal, had very properly acknowledged the errors committed during the initial stages of the revolution in a document entitled "Achievements of the April Revolution in Afghanistan" published in Kabul in 1984. The Special Rapporteur had announced his intention of carrying out his mandate in the most impartial and objective manner, but he had based his report exclusively on views expressed by the enemies of the Afghan revolution and, apart from the Fundamental Principles of the Democratic Republic of Afghanistan, he had not drawn on a single source in Afghanistan. He had not even taken note of the 70 or so newspapers and magazines published in Kabul. It was as though someone had sought to assess the great French Revolution by basing himself solely on the opinions of the French émigrés in Germany in 1793.

85. Unlike its most eloquent critics, Afghanistan was a party to the two International Covenants of 1966, and was preparing to accede to the Convention Against Torture. It was therefore subject to the reporting procedures set out in those instruments. Consequently, there had been no reason at all for the Commission to appoint a special rapporteur on Afghanistan. In spite of the campaign of hatred and undeclared war being waged against it, Afghanistan had frequently expressed its readiness to comply with the principles of international law and to seek a peaceful solution. The mediation undertaken by the representative of the Secretary-General of the United Nations with a view to negotiations between the Democratic Republic of Afghanistan, Pakistan and the Islamic Republic of Iran were steps in the right direction. In addition to supporting the mediation of Mr. Cordovez, Afghanistan had established direct contacts with the Government of Pakistan, and its proposals of 14 May 1980 and 24 August 1981 were constructive initiatives towards a settlement. His delegation therefore requested members of the Commission, through the Chairman, to reconsider their position on the whole question.

86. In conclusion, referring to the statement which had just been made by the representative of the Federal Republic of Germany, he argued that the representative in question could not speak on behalf of the citizens of the German Democratic Republic. Any initiative along those lines was incompatible with international law. Furthermore, any attempt to make the boundaries between the two German States more permeable infringed the right of the citizens of the German Democratic Republic to live in peace. Such a statement was not likely to further the relations between the two German States, which were sovereign States. It smacked of propaganda that should be avoided by all those who respected the existence of the two German States, in order to prevent a war from ever breaking out again in that part of Europe.

The meeting rose at 6.25 p.m.